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AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
DEPUTY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
SEATTLE DIVISION

JOSEPH ANDREW HYLKEMA, a single  
man,  
Plaintiff  
v.

No.

**C 09-0431**

COMPLAINT

SEATTLE SERVICE BUREAU, INC.  
d/b/a NATIONAL SERVICE BUREAU,  
INC., a Washington corporation;  
GWEN DELLNER and JOHN DOE  
DELLNER, individually and the  
marital community thereof;  
Defendants



09-CV-00431-CMP

COMES NOW the Plaintiff who, for causes of action set forth  
below, hereby sues defendants above-named (collectively referred  
to as "Defendant" herein) and for his complaint alleges the  
following:

**1. NATURE OF ACTION**

1.1. This is an action for damages for violations of the Fair  
Debt Collection Practices Act ("FDCPA"), 15 USC § 1692 et seq.,  
and the Washington Collection Agency Act ("WCAA"), RCW 19.16 et  
seq. Plaintiff brings this action in the capacity of a private

COMPLAINT - 1 OF 10

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NO ISS. SEA 25033

1 attorney general to impose strict liability upon Defendants for  
2 their violations of the FDCPA and the WCAA.

3 **2. JURISDICTION AND VENUE**

4 2.1. Jurisdiction arises under 28 USC §§ 1331, 1337(a), and 15  
5 USC § 1692k(d). Concurrent jurisdiction over the WCAA claims  
6 arises under 28 USC § 1367. Venue is proper in this Court as  
7 Defendants transacts business here and the conduct complained of  
8 occurred here.

9 **3. PARTIES AND BACKGROUND**

10 3.1. Plaintiff is a *sui juris* adult who has been the subject of  
11 Defendant's debt collection activities that took place within  
12 this district and has been damaged thereby.

13 3.2. Defendant SEATTLE SERVICE BUREAU, INC., also known as  
14 National Service Bureau, Inc., ("SSB") is a Washington  
15 corporation. Its offices and principal places of business are  
16 located at 205-18820 Aurora Avenue North, Seattle, WA 98133.  
17 SSB is licensed as a collection agency by the Washington state  
18 Department of Licensing and is authorized to do business in the  
19 state of Washington through its registered agent, one David B.  
20 Conyers located at that address.

21 3.3. SSB is the assignee of Plaintiff's alleged obligation to  
22 pay \$107.11 to non-party Dynacare Laboratories for services  
23 related to medical treatment (the "Alleged Debt.") The Alleged  
24 Debt arose out of transactions primarily for personal, family,

1 or household purposes.

2 3.4. Defendant's principal business purpose is the collection of  
3 debts. Defendant regularly attempts to collect debts asserted  
4 to be owed or due another using the telephone, mails, and other  
5 instrumentalities of interstate commerce, and did so attempt to  
6 collect the Alleged Debt from Plaintiff.

7 3.5. Defendant Gwen DELLNER, sued herein in her personal  
8 capacity, is a *sui juris* adult and was at all times relevant  
9 herein an employee of defendant SSB.

10 3.6. Defendant John Doe DELLNER, sued herein in his community  
11 capacity, is, upon information and belief, defendant Gwen  
12 DELLNER's spouse.

13 3.7. Upon information and belief, "Gwen Dellner" is not  
14 Defendant Gwen DELLNER's true name but a pseudonym (in industry  
15 parlance, a "desk name") used while attempting to collect debts.  
16 Plaintiff therefore does not know the true identity of the  
17 defendants DELLNER at this time and they are therefore sued  
18 herein by such fictitious names. Plaintiff will ascertain the  
19 true identity of the defendants DELLNER and will amend this  
20 Complaint to reflect the same.

21 3.8. All of defendant Gwen DELLNER's conduct complained of  
22 herein was done on behalf of, and in furtherance of, the marital  
23 community formed by her and her husband, defendant John Doe  
24 DELLNER.

1 3.9. Defendant Gwen DELLNER was hired, trained, and supervised  
2 using SSB's methods, materials, and personnel. All of Defendant  
3 Gwen DELLNER'S conduct complained of herein was done with SSB's  
4 full knowledge, consent, and support; was within the course and  
5 scope of her employment with SSB; and was done in furtherance of  
6 SSB's business.

7 **4. STATEMENT OF FACTS**

8 4.1. Defendant has attempted to collect the Alleged Debt from  
9 Plaintiff through a campaign of deceptive and harassing phone  
10 calls and messages.

11 4.2. Defendant's two-month campaign of harassment began in  
12 September 2008. During this time, Defendant repeatedly called  
13 Plaintiff and left cryptic and anonymous messages on Plaintiff's  
14 answering machine imploring Plaintiff to call a 1-800 number.

15 4.3. Each of these calls were placed without any meaningful  
16 disclosure of the caller's identity and failed to identify the  
17 caller as a debt collector.

18 4.4. Further, Defendant twice called Plaintiff more than three  
19 times in a single week. Defendant, in fact, twice called  
20 Plaintiff three times in a single day. A complete record of  
21 Defendant's calls is attached hereto as Exhibit "A." Recordings  
22 of all of Defendant's messages, as Audio Exhibits 1-20,  
23 accompany this Complaint on a CD-ROM.

24 4.5. On or about November 4<sup>th</sup>, 2008, Plaintiff called the 1-800

1 number and spoke with an individual later identified as  
2 Defendant DELLNER. A recording of the call accompanies this  
3 Complaint as Audio Exhibit 21.

4 4.6. During the conversation, Defendant DELLNER admitted to the  
5 frequency of the calls, saying, "I'm gonna [sic] have to have  
6 them tone down that dialer."

7 4.7. Defendant DELLNER also admitted that the messages left did  
8 not identify the caller or state the nature of the call based on  
9 her (mistaken) belief that "that would be illegal . . . per  
10 federal law."

11 4.8. Defendant DELLNER also falsely threatened to report the  
12 Alleged Debt on Plaintiff's credit report and to sue Plaintiff  
13 to enforce it. Upon information and belief, Defendant has not  
14 reported, and does not intend to report, this account to any  
15 credit bureau.

16 4.9. The falsity of Defendant DELLNER's lawsuit threat was laid  
17 bare when Plaintiff later spoke to another NSB employee, later  
18 identified as non-party John Weller ("Weller"). A recording of  
19 Plaintiff's conversation with Weller accompanies this Complaint  
20 as Audio Exhibit 22.

21 4.10. Weller stated that, in fact, Defendant did not intend to  
22 sue Plaintiff. Expressing surprise that Defendant DELLNER made  
23 the threat, he said, "I don't see that as a likely scenario" and  
24 that "I wouldn't see that as a likely possibility . . . if

1 | you're not really working right now, does that make you suit-  
2 | worthy? I don't think so."

3 | 4.11. Defendant's conduct was persistent, deliberate and in bad  
4 | faith.

5 | 4.12. As a direct and proximate result of Defendant's conduct,  
6 | Plaintiff has suffered damages.

7 | **5. FIRST CAUSE OF ACTION – VIOLATION OF FDCPA**

8 | **COUNT ONE – VIOLATION OF 15 U.S.C. § 1692d(6)**

9 | 5.1. Defendant's placement of telephone calls without meaningful  
10 | disclosure of the caller's identity constitutes harassment and  
11 | abuse of Plaintiff. *See, inter alia, Hosseinzadeh v. M.R.S.*  
12 | *Associates, Inc.*, 387 F.Supp.2d 1104, 1116 (C.D.Cal. 2005); *Foti*  
13 | *v. NCO Fin. Sys., Inc.*, 424 F. Supp. 2d 643, 669 (S.D.N.Y.  
14 | 2006).

15 | **COUNT TWO – VIOLATION OF 15 U.S.C. § 1692e(5)**

16 | 5.2. Defendant's false threats to sue Plaintiff and report the  
17 | Alleged Debt to the credit bureaus, when in fact such action  
18 | cannot legally be taken or is not intended to be taken,  
19 | constitutes attempts to collect the Alleged Debt through false  
20 | or misleading representations and means.

21 | **COUNT THREE – VIOLATION OF 15 U.S.C. § 1692e(10)**

22 | 5.3. Defendant has attempted to collect the Alleged Debt through  
23 | false, misleading or deceptive representations and means by  
24 | failing to disclose that its phone calls were from a debt

1 collector.

2 **6. SECOND CAUSE OF ACTION — VIOLATION OF WCAA**

3 **COUNT ONE — VIOLATION OF RCW 19.16.250(10)**

4 6.1. Defendant has threatened to impair Plaintiff's credit  
5 rating if the Alleged Debt was not paid in violation of the  
6 WCAA.

7 **COUNT TWO — VIOLATION OF RCW 19.16.250(12)(a)**

8 6.2. To the extent that Defendant has communicated with  
9 Plaintiff in any form, manner or place more than three times in  
10 a single week, each such communication constitutes harassment in  
11 violation of the WCAA.

12 **7. NO BONA FIDE ERROR DEFENSE**

13 7.1. As evidenced by Audio Exhibits 21 and 22, to the extent  
14 that any violations of the FDCPA complained of herein were not  
15 intentional, Defendant failed to maintain procedures reasonably  
16 adapted to avoid such errors. Further, any such errors were  
17 errors of law that are not excused by the *bona fide* error  
18 defense. See *Baker v. GC Services, Inc.*, 677 F.2d 775, 779 (9<sup>th</sup>  
19 Cir. 1982). Thus, the 15 U.S.C. § 1692k(d) *bona fide* error  
20 defense does not apply.

21 **8. PRAYER FOR RELIEF**

22 8.1. WHEREFORE, Plaintiff respectfully prays the Court enter  
23 judgment against Defendants, and each of them jointly and  
24 severally, as follows:

1 8.1.1. For money damages, including actual damages and the  
2 maximum statutory, treble and exemplary damages permitted under  
3 the FDCPA and the WCAA, and

4 8.1.2. For costs and fees of the suit, including reasonable  
5 attorney fees in the event that Plaintiff instructs counsel  
6 herein or to enforce any judgment entered herein in this or any  
7 foreign jurisdiction.

8 8.1.3. For an order, pursuant to RCW 19.16.450, barring the  
9 collection of interest, service charges, attorney fees,  
10 collection costs, delinquency charge, or any other fees or  
11 charges otherwise legally chargeable to the Plaintiff on the  
12 Alleged Debt, and

13 8.1.4. For such other and further relief and the Court may deem  
14 just, proper and equitable.

15 DATED: April 1, 2009

16  
17 S/ Joseph A. Hylkema  
18 JOSEPH ANDREW HYLKEMA  
19 WSBA: N/A  
20 Plaintiff pro se  
21  
22  
23  
24



**EXHIBIT “A”**

<u>AUDIO EXHIBIT</u>	<u>CALLER ID</u>	<u>DATE</u>	<u>TIME</u>
1	(206) 533-0963	September 18, 2008	12:38 PM
2	(206) 533-0963	September 23, 2008	12:10 PM
3	(206) 533-0963	September 23, 2008	2:46 PM
4	(206) 533-0963	September 23, 2008	5:55 PM
5	(206) 533-0963	September 24, 2008	10:29 AM
6	(206) 533-0963	September 24, 2008	11:46 AM
7	(206) 533-0963	October 1, 2008	11:43 AM
8	(206) 533-0963	October 3, 2008	2:44 PM
9	(206) 533-0963	October 7, 2008	11:18 AM
10	(206) 533-0963	October 13, 2008	9:21 AM
11	(206) 533-0963	October 13, 2008	11:55 AM
12	(206) 533-0963	October 14, 2008	2:25 PM
13	(206) 533-0963	October 15, 2008	1:33 PM
14	(206) 533-0963	October 15, 2008	4:36 PM
15	(206) 533-0963	October 16, 2008	12:06 PM
16	(206) 533-0963	October 17, 2008	12:25 PM
17	(206) 533-0963	October 20, 2008	12:02 PM
18	(206) 533-0963	October 28, 2008	10:12 AM
19	(206) 533-0963	October 28, 2008	12:56 PM
20	(206) 533-0963	October 28, 2008	4:18 PM